

WELCOME TO THE ETHICS COMMISSION MEETING

Please sign in at the testimony table.

As a courtesy, please silence your cell phone.



Date: January 17, 2018

Time: 11:30 a.m.

Place: Kapālama Hale
925 Dillingham Boulevard
1st Floor Conference Room

1

ORDER OF BUSINESS

I. Call to Order, Public Notice, Quorum



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II. NEW BUSINESS

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution



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II.A. CHAIR'S REPORT (cont'd)

2. For Action: Approval of Open Session Minutes of December 20, 2017
3. For Action: Approval of Executive Session Minutes of December 20, 2017

[exec/session if needed, HRS §92-5(a)(4)]



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II.B. EXECUTIVE DIRECTOR AND LEGAL COUNSEL'S (EDLC) REPORT

1. Staff Work Reports Summary



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS LEGAL CLERK III

- Administered city purchasing credit card (pCard); ASO/COR to assist during transition
- Processed case intake, requests for advice, misc. correspondence, litigation support, meeting materials
- Coordinated conference room, motorpool car use



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS LEGAL CLERK I

- Assisting IT dept. (DIT) with training refinements; launching/managing board and commission member training
- Assuming most Legal Clerk III responsibilities
- Updating, redesigning, refreshing website
- Processing lobbyist registrations, annual reports



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II.B.1. STAFF WORK REPORTS – STUDENT INTERN

- Pending approval - Sr. Clerk position (P/T)
- Pending hire – 2017 Po`okela Fellow
- Assist with legal clerk functions
- Process lobbyist registrations, annual reports



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS INVESTIGATOR

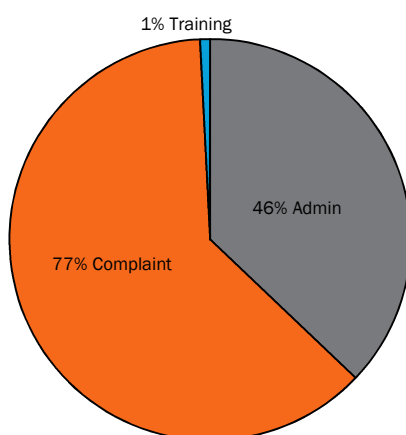
- Managing case load (interviews, investigation, research/analysis, reporting)
- Prepping investigation report for legal counsel
- Developing triage/intake, case management process, process flowcharts, procedures



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II.B.1. STAFF WORK REPORTS SUMMARY INVESTIGATOR – DEC. 2017 TO JAN. 2018



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS ASSOCIATE LEGAL COUNSEL (ALC)

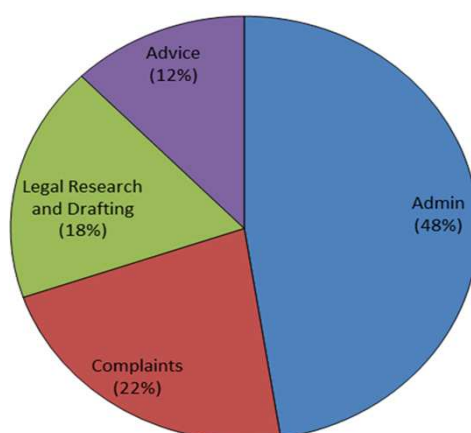
- Managing requests for advice
- Investigating/managing cases, strategy, training Investigator and Legal Clerk I
- Conducting legal research and drafting
- Handling ongoing admin responsibilities



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II.B.1. STAFF WORK REPORTS SUMMARY ALC – DEC. 2017 TO JAN. 2018



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II.B.2 STATISTICS

a. Website Sessions

- December 2017 – 588



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II.B.3 BUDGET

b. FY2019 Operating Budget Request



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program

- Mindflash, as of Jan. 8, 2018
 - ✓ Rate Commission [5/6]
 - ✓ Zoning Board of Appeals [5/5]
 - ✓ Planning Commission [7/9]
 - ✓ Neighborhood Commission [6/8]



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program (cont'd)

- Mindflash; Next launch, Jan. 18
 - ✓ Fire Commission [Jan. 22]
 - ✓ Civil Service Commission
 - ✓ Grants in Aid Advisory Commission
 - ✓ Salary Commission
 - ✓ Board of Water Supply



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II.B.7. EDUCATION OPPORTUNITIES

- a. **Strategic Communication** (Cmmr. Kanda),
January 17, 2018
- b. **Administrative Hearings** (State Office of
Administrative Hearings, Dept. of Commerce
and Consumer Affairs) – Planning
- c. **Campaign Spending** (Campaign Spending
Commission) – Planning



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II.B.8. INTEGRITY HOTLINE

Outreach:

- New posters
- New pocket information cards

[End – EDLC Report]



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III. EXECUTIVE SESSION

A. For Discussion:

Kealoha vs. Totto



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III. EXECUTIVE SESSION

C. For Discussion:

Procedural Issues Relating to Reconsideration of
Staff's Preliminary Determination of April 19, 2017,
Ethics Commission Meeting Agenda Item III.A.:
Whether Officer Knew or Should Have Known That
Officer's Alleged Partisan Advocacy for Charter
Amendment on the November 8, 2016, Ballot
Violated RCH Section 11-104



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IV. STRATEGIC PLANNING

Exposure Draft (dated January 17, 2018)

- Commissioner comments incorporated
- Amended timeline



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IV. STRATEGIC PLANNING (cont'd)

Timeline:

- ✓ Sept. 1, 2017 – Receive comments
- ✓ Sept. 20, 2017 – Ethics Comm. reviews comments
- ✓ Sept. 27, 2017 – Permitted Interaction Grp (PIG) reviews comments, amends draft
- ✓ Nov. 2017 – PIG's am'd draft to Ethics Comm. (1)
- Jan. 2018 – Ethics Comm. reviews strategic plan (2)
- Feb. 2018 – Ethics Comm. adopts strategic plan (3)



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V. ADJOURNMENT

Honolulu Ethics Commission
Kapālama Hale
925 Dillingham Boulevard, Suite 190
Honolulu, Hawai`i 96817
Ph: (808) 768-9242

Website: www.honolulu.gov/ethics Email: ethics@honolulu.gov



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**Agenda Item II.B.8.,
Page 2
[Integrity Hotline Poster and
Business Card]**



INTEGRITY HOTLINE

www.honolulu.ethicspoint.com
1-877-365-OAHU (6248)

Available 24 hours a day,
365 days a year.
Report any time, from any
location. You **DO NOT** have
to give your name.

What is the Hotline?

It is a dedicated telephone line and website for City employees to report unethical, fraudulent, or illegal acts by City and County of Honolulu officials, employees, and vendors.

When should I use the Hotline?

You should report when you observe unethical or illegal activity, such as City officials:

- Committing theft and fraud
- Taking kickbacks, bribes, or inappropriate gifts
- Using City time or resources for a non-City purpose

- Making a decision when a conflict of interest exists
- Falsifying City records

Why should I report?

The vast majority of employees are honest and committed to serving our community with integrity. However, when you observe unethical or illegal conduct, prompt reporting is the right thing to do. Speak with your supervisor or report the conduct to the Hotline.

What happens when I report?

If you call the Hotline, a trained interviewer will ask

questions to obtain facts that will help the City follow up on your report. If you visit the Hotline website (www.honolulu.ethicspoint.com), prompts will guide you through intake questions.

What happens to my report?

The independent off-island Hotline service provider sends a written report on your case within 24 hours to the City for follow-up.

Where can I get more information?

INTERNAL CONTROL DIVISION

768-3850

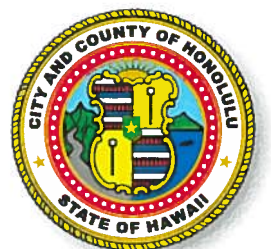
Email: integrityhotline@honolulu.gov

ETHICS COMMISSION

768-9242

Website: www.honolulu.gov/ethics

Email: ethics@honolulu.gov



HELP BUILD PUBLIC TRUST IN YOUR GOVERNMENT

Speak Up, It's Your Kuleana

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**Agenda Item IV.,
Page 2
[Exposure Draft 5; Dated
January 17, 2018]**

Ethics Commission – 2027

This strategic plan involved a review of current practices and procedures, and sets forth a blue print for the future.

This document sets out a longer-term strategy and is based on discussions held in 2017. It is a work in progress, a flexible and directional touchstone for Commissioners and Staff. It will be revisited periodically over the next several years—2020 (year three), 2022 (year five), and 2024 (year seven)—and as key assumptions change or as internal or external conditions require. As needed, we will use it as source material to drive specific changes in direction, laws and rules, procedures and activities.

As part of this strategy, we will examine other jurisdictions and determine best practices for ethics commissions and ethics oversight. Similar jurisdictions may have similar ethics laws, oversight and enforcement responsibilities, population size, demographics, geographic size, among other factors.

Finally, we commit to properly balancing transparency and openness with necessary and legally warranted confidentiality. Critical to our success, however, is the need for appropriate resources, including adequate budget, number and type of staff, and commissioner capacity proportionate to the overall workload.

Mission Statement

To ensure that elected officials, appointed officers and employees demonstrate the highest standards of ethical conduct so that the public may have trust and confidence in the integrity of government.

“We hold the public’s trust.”

I. Who We Are

Chartered by the Hawai'i State Constitution and Revised Charter of the City & County of Honolulu, we are the City & County of Honolulu's ethics watchdog agency. Our job is to ensure that all of the C&C's approximately 10,000 elected leaders, appointed officials, and employees understand and follow the highest ethical standards of conduct governing their work for the public.

In Fiscal Year 2017, we began to review our policies and procedures to determine where we were and then plan for the future. We filled our full complement of five budgeted staff—Executive Director and Legal Counsel, Associate Legal Counsel, Investigator, and two Legal Clerks—and assessed and debriefed our practices and began making adjustments for efficiency and effectiveness. The work is on-going, but in progress.

Skills training for Commissioners and Staff is also essential for success. While some training has been accomplished—for example, sunshine law and government records training, core computer application refresher training, and investigation training—there is much more to do.

II. What We Do

We have jurisdiction over education and enforcement of the following laws:

- Conflicts of interest, including gifts
- Disclosure of personal and financial conflicts of interest
- Preferential treatment and misuse of city resources
- Lobbyist regulation

III. Why We Are Working on a Forward-Facing Strategy

We are giving intentional forethought to shape the Commission's future. We have a new Executive Director, a competent and hardworking Staff, and a strong set of Commissioners, all of whom are dedicated to implementing the agency's mission. We anticipate a rising volume of work and cases of increasing complexity. With this

document, we want to further position ourselves so that our work is conducted with the greatest possible efficiency and integrity.

We recognize that a rising volume of work and cases of increasing complexity drive a need for budget and resources proportionate to workload. Meeting this need will be one of our strategic priorities.

IV. Dashboard

Here are the metrics and vital signs we plan to use to monitor ourselves. Wherever possible, we will apply “aging” reports to evaluate workload and stay alert for backlogs, gaps, and case-handling delays. This dashboard is meant to be a management and decision support tool for Commissioners and Staff.

Trailing Indicators *(Looking Back)*

1. Requests for training
2. Requests for advice
3. Advisory opinions
4. Preliminary determinations (reevaluate and address via future rule-making or policy adoption)
5. Investigations
6. Complaints filed
7. Requests for information via the Uniform Information Practices Act (UIPA), Hawaii Revised Statutes Chapter 92F
8. Hearings
9. Ethics Commission meetings that comply with Hawaii open meetings law, also known as the sunshine law, Hawaii Revised Statutes Chapter 92

Leading Indicators *(Looking Ahead)*

10. Anticipated population growth/decline in the C&C of Honolulu
11. Anticipated number of C&C employees and elected and appointed officials
12. Anticipated number of new employees and elected and appointed officials
13. Anticipated Ethics Commission budget and staff positions required to handle anticipated needs

V. Our Key Values

1. **Independence.** We will dispassionately appraise every circumstance that comes before us against pertinent laws and specific facts. We will play no political favorites, and let the chips fall where they may.
2. **Transparency.** We will strive for the greatest possible openness while honoring the rights of privacy and confidentiality. We endeavor to balance a user-friendly guidance and approach with sound procedures to vet, triage, and bring actions to enforce the City's standards of conduct.
3. **Above Reproach.** We ourselves, as a Commission and as individuals, will continuously strive to exemplify the behaviors we enforce on others.

VI. The Current Situation

Here is how we evaluate ourselves at this moment:

Major Strengths	Major Weaknesses
We now have a strong Staff in place and a cohesive and dedicated group of Commissioners.	Our budget is insufficient to meet our core needs and rising demands. Our existing staff is not large enough to fulfill all functions; that is, investigations, prosecutions, advisory opinions, ethics training, etc.
Our relationships with other agencies are continuously improving.	We need to update and clarify our rules.
We are developing increasingly better methods of training the City's approximately 10,000 employees on their ethical duties.	We need to update our policies and procedures.

<p>Our monthly data collection and reporting systems are steadily improving.</p> <p>Our meetings are more efficient with good opportunities for public testimony.</p>	<p>Staff and Commissioners lack sufficient opportunities for skills and ethics training and upward mobility and opportunities to interact with ethics commissions of other jurisdictions.</p> <p>The ordinances that direct and guide us require updating.</p> <p>We are not well understood by City elected officials, officers, employees, and the public at large.</p> <p>We remain entangled in litigation, which impedes our work and drains resources.</p> <p>Administrative support duties are blurry and need to be clarified.</p> <p>How we interpret and best function with sunshine law requirements is an on-going effort.</p>
<p style="text-align: center;">Opportunities</p> <p>We will eventually be audited, but we will undertake our own thinking on lessons learned and future efforts; knowledge gained from this effort will be supplemented by what external auditors recommend.</p> <p>We can define, operationalize, and make public our best practices.</p> <p>Rotation of Commissioners brings new perspectives and adds strength.</p> <p>We can utilize skilled volunteers who understand the Ethics Commission's work.</p> <p>There are opportunities to impact ordinances and adopt rules.</p> <p>We can position ourselves for inevitable future administrations and councils.</p>	<p style="text-align: center;">Challenges</p> <p>Turnover and rotation. Potential loss of Staff and Commissioners.</p> <p>Flat resources or budget cuts if the economy dips, which is expected.</p> <p>A small number of excessively time-consuming cases that pull us away from other required work.</p> <p>Physical location. Not close to other agencies.</p> <p>Scofflaws who ignore C&C ethical requirements, for which the Ethics Commission gets blamed.</p>

<p>We can explore coordinating ethics trainings, for mutual benefit, with other departments and agencies.</p> <p>We can explore collaborating with state and county agencies to harmonize requirements and forms.</p>	
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VII. Assumptions About the Next 10 Years

- Ethics Commission’s staffing needs will increase even as we gain efficiency, but our budget will always be determined by others.
- Our caseload will go up because:
 - C&C of Honolulu’s population increases about 10 percent every 10 years.
 - The more training and outreach we do, the more inquiries and cases are generated.
 - As the social fabric in Hawai‘i changes because of demographic shifts and as O‘ahu becomes more crowded and factionalized, we will receive more ethics inquiries and concerns. People are increasingly argumentative and litigious.
 - When the economy dips and city services are diminished, we will receive more ethics inquiries, concerns, and requests for advice.
 - As C&C employee ranks turn over, training will need to be continuously refreshed and delivered to new cohorts of employees.
- More employees will have electronic devices, enabling greater reach for ethics training. Computerized training delivery will become easier, faster, and cheaper.
- The “80/20” principle will continue to prevail; that is, 80 percent of our work and effort will tend to respond to 20 percent of our caseload. Some

of that 20 percent will be hot potatoes with high media visibility. As social media expands, there may be increasing numbers of hot potatoes.

- We will always be in some kind of “stretch mode” and likely never have all the resources our demands require.
- Over the next 5-10 years, federal and state funding will decline.
- The process of Commissioner appointments will stay the same: Mayor appoints, Council confirms.
- We will need to do more effective education and outreach to the Mayor and Council to ensure they understand what we do, what their unique ethical requirements are, and to secure the funds and positions we need to operate effectively.
- The Commission may on its own initiative initiate complaints.

VIII. Priority Objectives

Objective 1: Review, update, and realign ethics programs for compliance, effectiveness, and efficiency:

Areas to be Reviewed for Changes and Priorities	Charter/ Ordinance	Substan Admin Rules	Proced Admin Rules	SOPs	Training/ Education
Financial Disclosures	x	x		x	x
Lobbyist Regulations	x	x		x	x
Separation of Duties (intake, investigation, prosecution, adjudication)	x		x	x	
Gifts	x	x		x	x
Fair & Equal Treatment	x	x		x	x
Conflict of Interest Disclosures	x	x		x	x

In conjunction with the above:

- Examine procedures from: Hawai'i Office of Disciplinary Counsel (ODC); Regulated Industries Complaints Office (RICO), Hawai'i Department of Commerce and Consumer Affairs (DCCA); and other

ethics commissions, e.g., Austin, TX (population ~947,890); City and County of San Francisco, CA (population ~870,887); San Jose, CA (population ~1,025,350); Jacksonville, FL (population ~880,619); among others; and also review their staff-to-workload ratios.

- b. Review and revise, as needed, the definition of “complaint” and consider disallowing anonymous complaints to proceed to investigation without named complainant. Prior to that, it would be a “contact.”
- c. Provide opportunity to review proposed changes and offer comments and concerns.
- d. Analyze and potentially pursue having Corporation Counsel conduct certain prosecutions as a way of reducing internal conflicts between Commission functions.
- e. To ensure uniformity of practice and continuity to the future, develop an updatable set of policies and procedures available to the Commission, Staff, and the public. Collate existing Commission policies and procedures and develop new ones in conjunction with future changes to the ordinances and rules described above.
- f. Consider adopting as a policy that the Commission may not initiate or proceed with its own investigation if official investigations are being conducted by other agencies or tribunals with sufficient resources and enforcement powers. Any such policy must recognize that the Commission enforces ethics laws, which may be very different from those of other agencies or tribunals.

Objective 2: Further strengthen and expand the education and training of the City and County’s ~10,000 officers, employees, and elected officials.

- a. Develop and deliver improved outreach materials (brochures, FAQs, newsletters, etc.) that describe the Commission’s work and provide offers of assistance.
- b. Conduct additional outreach to all elected and appointed officials and to all agency employees to make them fully aware of the Commission’s capabilities and to provide regular or specialized trainings.

- c. Continue to refine, track, and regularly evaluate the use of training software as a core-training tool.
- d. Offer an annual training for lobbyists, possibly with the State Ethics Commission to avoid duplication of efforts.
- e. Continue to work with the City Department of Information Technology to develop an in-house ethics training application for both domain users (honolulu.gov) and non-domain users (e.g., board and commission members).

Objective 3: Strengthen the internal capabilities and procedures of the Ethics Commission.

- a. Acquire and implement a case management data base to enable tracking, dashboard monitoring, and reporting.
- b. Acquire and implement a comprehensive compendium of Ethics Commission Advisory Opinions and Ethics Commission-related Corporation Counsel Opinions that is easy to use when conducting legal research.
- c. Develop and implement training and professional development activities for Staff and Commissioners. Potential areas to be covered include sunshine law, information technologies, and data management. Mechanisms can include:
 - i. State Public Library's Gale Courses for computer application training (MS Word, Excel, Power Point, Access, others);
 - ii. Equal Opportunity Office Internal Investigation Training;
 - iii. Reid Investigator Interview Training; and
 - iv. Attendance at Council on Governmental Ethics Laws (COGEL) and/or the Society of Corporate Compliance and Ethics (SCCE) conferences.
- d. Review, revise as needed, and implement a simple written policy on who speaks publicly for the Commission.

Objective 4: Above and beyond our management “dashboard,” develop, implement, and use a simple set of overall effectiveness measures that will describe quantitatively the core efficacy of the Commission. The measures should reflect both inputs and outputs and the quantity and quality of both.

IX. Short Term Actions and Accelerators – Calendar Year 2018

Actions to be completed or started in Calendar Year 2018 will be reported on at monthly Ethics Commission meetings.

Draft 5

**Agenda Item IV.,
Page 2
[FY2017 Accomplishments]**

Accomplishments FY2017 (July 1, 2016 - June 30, 2017)
DRAFT 1/10/2018

Ethics Commission - 7-Member Commission Fully Appointed

Aug 2016 - 1 new commissioner appointed (Adler)
Apr 2017 - 2 holdover commissioners termed out (Silva, Yuen)
May 2017 - 2 new commissioners appointed (Kanda, Monk)

Personnel - All Budgeted Vacant Positions Filled in CY2016; EC Fully-Staffed CY2017 (5/5)

May 2016 - 2 legal clerks on staff (2/5 staff)
Aug 2016 - ALC and EDLC join staff (4/5 staff)
Nov 2016 - INV joins staff (5/5 staff)

Interns, Fellows Assisted EC

Jan - Jul 2017 - 1 Pookela Fellow (12 hrs/wk)
Mar - Sep 2017 - 1 MPA Intern (rules, guidelines)
Jun - Aug 2017 - 2 law school interns (brief AOs)

Office Relocated to Kapālama Hale

Nov 2016 - relocated from South King Street to Kapālama Hale
Jan 2017 - 1st EC meeting held in Kapālama Hale

Strategic Planning Commenced

Fall 2016 - began planning
Apr, May, Sep 2017 - PIG meetings
June 2017 - draft discussed at EC meeting, posted to website, comments solicited

Ethics Training - Learning Management System (LMS) Development On-Going

Fall 2016 - began working with DIT to develop LMS
Spring 2017 - create prototype LMS for all officers/employees, test pilot on Legislative Branch
Spring 2017 - create prototype LMS for bd/comm member training, test pilot

Advisory Opinions Issued (2)

AO 2017-1 (re: independent expenditures by Super Political Action Committees)
AO 2017-2 (re: EC's jurisdiction to decide if a councilmember's receipt of 40% or more of campaign contributions by a special interest group creates a conflict of interest)

Ethics Inquiries

Total # inquiries - 278
inquiries closed - 261 (94%)
requests for advice - 189 (68%)
complaints - 87 (31%)

Ethics Commission Meetings (13)

Timely agendas filed, mins prepared, materials prepped/uploaded, post-meeting clean-up completed

Ethics Outreach - Newsletters Produced and Delivered

Winter (Dec) 2016
Spring/Summer (May) 2017

Office Procedures Reviewed, Amended, Implemented

- Fall 2016/Spr 2017 - implemented new EC meeting procedures, timeframes, deadlines
- Fall 2016/Spr 2017 - implemented weekly staff meetings, case management meetings
- Fall 2016/Spr 2017 - implemented EC meeting calendar with relevant dates, deadlines
- Fall 2016/Spr 2017 - posted EC meeting agendas, minutes, materials in more accessible format
- Winter 2016 - amended financial disclosure forms and instructions
- Spr 2017 - posted meeting materials to Commissioners and public at the same time
- Spr 2017 - debriefed lobbyist reg'n, annual rpt; F/D; disclosure of interest (CC-8)
- Spr 2017 - uploaded lobbyist summary, registration forms to website
- Sum 2017 - revised intake form, procedures

Charter Amendment and Legislation Passed

- Fall 2016 - track charter amendment through Nov 2016 general election
- Nov 2016 - charter amendment passes
- Spring 2017 - submit bill to conform ordinances to charter amendment
- Summer 2017 - amended ordinance passes

Training Taken - Commrs (1 hour)

- OIP - training session @ EC meeting on UIPA and sunshine law

Training Taken - Staff (400+ hours)

- OIP training session @ EC meeting on UIPA and sunshine law
- OIP training and new rules
- Reid Investigator Training
- Internal Investigator Training
- Management Development Training
- Excel, Word, Power Point, other computer application training
- Senior Management Training
- State Ethics Training
- Center for the Advancement of Public Integrity Training (online)
- Benefits Processing
- New Employee Orientation Training
- LexisNexis Training
- Prevention of Sexual Harassment Training
- Lifting Hazards & Proper Lifting Techniques Training
- DIT Video-Conferencing Training
- Open Web Ethic Concerns Training
- Leadership Seminar
- Legislative Reference Bureau and Administrative Rules Drafting Manual
- Native Hawaiian Peacemaking Concepts
- DEM Disaster Training
- Fire Extinguisher Training
- Dbase Management Essentials

Statistics - Newly Compiled and Reported

- EC complaints - by quarter, FYs, comparisons
- RFAs - by quarter, FYs, comparisons
- Budget - FY comparisons
- Intake - category breakdown

Financial Disclosures - FYs, comparisons

Lobbyists - FYs, comparisons

Disclosure of Interests (CC-8)

UIPA requests

Website hits - FYs, comparisons

Managed Litigation

Managed Procurement for Conflict of Interest Cases

EC Files Scanned and Archived, Hardcopies Shredded